

SPECIAL USE PERMIT

FILE NO.	SP19-003
LOCATION OF PROPERTY	250 Commercial Street (South side of Commercial Street, approximately 280 feet west of North 7th Street)
ZONING DISTRICT	Light Industrial
GENERAL PLAN DESIGNATION	Light Industrial
PROPOSED USE	Special Use Permit to demolish an existing 1,616-square foot office/storage building, remove two non-ordinance-sized trees and construct a 5,000-square foot supportive office building and a 1,133-square foot storage building, and allow outdoor storage use with a relocated covered storage shed at the rear of the site as well as site improvements including parking, landscaping, grading and drainage on an existing 0.89-acre industrial site.
ENVIRONMENTAL STATUS	Exempt per CEQA Guidelines Section 15303(c) for New Construction of Small Structure
APPLICANT ADDRESS	Gary Kohlsaalt 51 University Avenue, STE L Palo Alto, CA 95030
OWNER ADDRESS	Leo Maniglia and Kim Maniglia Maniglia Landscape Construction Company 1655 Berryessa Road San Jose, CA 95133

FACTS AND FINDINGS

The Director of Planning, Building, and Code Enforcement finds that the following are the relevant facts and findings regarding this proposed project:

1. **Project Description.** A Special Use Permit is requested to demolish an existing 1,616-square foot office/storage building and construct a 5,000-square foot supportive office building and a 1,133-square foot storage building, and allow outdoor storage use with a relocated covered storage shed at the rear of the site as well as site improvements including

parking, landscaping, grading and drainage on an existing 0.89-acre industrial site. The project also includes the removal of two non-ordinance-sized trees.

2. **Site Description and Surrounding Uses.** The subject site is currently developed with an approximately 1,133-square foot office/storage building at the front, a 3,386-square foot warehouse at the back, and a storage shed at the side and another storage shed at the back of the site. The site is within an industrial area, surrounded by a transient housing building to the east, an electrical supplier shop to the north across Commercial Street, an industrial equipment supplier shop to the west, warehouses to the south.
3. **General Plan Conformance.** The subject site has a Light Industrial land use designation on the Envision San José 2040 General Plan Land Use/Transportation Diagram. This land use designation is intended for a wide variety of industrial uses and excludes uses with unmitigated hazardous or nuisance effects. The proposed office and storage building are supportive to the industrial use (landscape and construction company) on site. Therefore, the project is consistent with the Light Industrial General Plan Land Use designation.
4. **Zoning Conformance.** The subject site is located in the LI Light Industrial Zoning District. The following development standards are applicable to the project:
 - a. **Use:** Pursuant to Table 20-110 of [Section 20.50.100](#) of the San José Municipal Code, outdoor storage use is allowed with a Special Use Permit and warehouse/storage is a permitted use within LI Light Industrial District. Pursuant to [Section 20.50.125.A.2](#) of the San José Municipal Code, incidental office use is a permitted use in the LI Light Industrial District only when the incidental office use occupies a total of no more than fifteen (15) percent or up to 5,000 square feet, whichever is greater, of the site area used and occupied by the existing subject industrial use. The proposed supportive office building is 5,000 square feet. Therefore, it is permitted within the Light Industrial District.
 - b. **Setbacks and Height:** [Section 20.50.200](#) establishes the required setbacks and height for the Light Industrial Zoning District in Table 20-120. Buildings in the Light Industrial Zoning District should have a minimum 15-foot front setback and parking should have a minimum 20-foot front setback. There is no minimum required rear or side setbacks. The maximum allowable height is 50 feet. *The proposed building has a front setback of 10 feet and the proposed parking is setback from the front property line 13.25 feet. Both front building and parking setbacks do not comply with the development standards, however, per Zoning Code Section 20.50.230, front setback reduction may be allowed within the LI Zoning District. Given that except one building to the south of the project site all other buildings within the same block or across the street have reduced building setbacks ranging from 0 to 10.75 feet, the proposed 10-foot building front setback and 13.25-foot parking setback would be acceptable. The proposed office building height is 20.3 feet and the proposed storage building height is 14.3 feet. The project does not exceed the maximum height requirement.*
 - c. **Parking:**
Vehicle Parking: Per Table 20-190 of the San José Municipal Code, vehicle parking for office use is required at 1 per 250 net square feet of the office area. The proposed office building has a gross floor area of 5,000 square feet. Hence 17 vehicle parking spaces are required for office use. For warehouse/storage building, a minimum of two vehicle

parking spaces are required for warehouses with a total gross floor area under 5,000 square feet. The proposed 1,133-square foot storage building and the existing 3,386-square foot warehouse would require two vehicle parking spaces. The required parking for outdoor storage use is one per employee. According to the Operations Plan, there will be four full-time employees working on the outdoor storage area and the warehouse. Since two parking spaces are required for the warehouse, two vehicle parking spaces would be required for the outdoor storage use. The total number of required parking spaces would be 21. The project would provide 30 vehicle parking spaces. The project complies with the vehicle parking space requirements.

Bicycle Parking: Bicycle Parking Requirement for office use is one space per 4,000 square feet of the net floor area. The 5,000-gross square foot office building would require two bicycle parking spaces. Warehouse/storage building/outdoor storage use require one bicycle parking space per 10 full-time employees. One long-term bicycle parking space would be required given that there would be four full-time employees working on these areas. The project would require three bicycle parking spaces. The project proposes four bicycle parking spaces. The project complies with the bicycle parking space requirements.

Motorcycle Parking: Per Zoning Code Section [20.90.350.B](#), a minimum of three motorcycle parking spaces shall be provided for warehouse use. No motorcycle parking is required for outdoor storage use or supportive office. The project proposes three motorcycle parking spaces. Project complies with the motorcycle parking requirement.

- d. **Lighting:** Pursuant to Section [20.50.240](#) of Title 20, all lighting or illumination shall conform with any lighting policy adopted by the city council. Light fixture heights should not exceed eight feet when adjacent to residential uses unless the setback of the fixture from property line is twice the height of the fixture. No ground mounted light fixture shall exceed twenty-five feet in height. *The project proposes nine wall lights and six pole lights. Among the nine wall lights, three are eight-foot high, one is nine-foot high and five are 10-foot high. The wall lights exceeding eight feet in height are located at the front and side of the office building, away from the residential building to the north. All pole lights do not exceed 20 feet in height. The pole light closest to the adjacent transient housing building is located to the north of the existing warehouse, approximately 40 feet from the property line. All lights are directed downwards. The photometric plan shows there is nearly zero light spillage to the adjacent properties. The project complies with this Lighting section.*
 - e. **Landscaping:** Pursuant to Section [20.50.260.3](#) of Title 20, a ten-foot-wide landscape buffer and a seven-foot-high property line masonry wall is required when a driveway, service yard, loading area or parking lot is adjacent to residential uses. *The project site is adjacent to residential use to the north and the west at the rear portion. Masonry walls are proposed at the northern and western property lines with a height of 11.5 feet. A 10-foot wide landscape strip is proposed along the western property line at the rear portion of the project site. The project meets the landscaping requirement.*
5. **Industrial Design Guidelines:** The project is an industrial use and was therefore evaluated under the City's Industrial Design Guidelines. Per the Industrial Design Guidelines, without limiting the potential for architectural innovation, simpler buildings should contain differentiated elements using details at the base and eave or cornice line. Exterior building

treatments, including colors, materials and architectural detailing, should be consistent and wrap around all elevations to avoid blank walls adjacent to other uses.

The project site is within an industrial area with a mix of architectural styles. The proposed buildings have gable roofs which is compatible with the adjacent transient residential building. The proposed building incorporates horizontal metal siding as the base, vertical metal siding in the middle and a metal standing seam roof on top. The office building includes a defined entry with stain wood truss and stone veneer sidings, which provides variation and visual interest to the building. The proposed office building and storage building have zero side setback to the northern property line. To avoid the long masonry wall along this northern property line, the project proposes to wrap around the two new buildings and consistently apply the roof and wall materials.

The Industrial Design Guidelines also requires the perimeter of the site to be landscaped to screen parking, buffer adjacent uses and provide an attractive view from the street. Landscaping along streets should combine a mix of trees, shrubs, and ground cover in the area between buildings and the sidewalks. Parking lot trees should have large canopies and should be a minimum 15- gallon size when planted. A minimum 5-foot wide landscape bulb should be provided at the ends of each parking aisle.

The project includes a 10 to 13.25-foot wide landscape strip mixed with trees, shrubs and ground cover in front of the building and parking lot along the street to provide an attractive view from the street. The project also includes a 5-foot landscape strip along the southern property line and a 10-foot landscape strip along the northwestern property line to provide buffers to the adjacent uses. 15-gallon trees are proposed at parking lot. 5-foot wide landscape bulbs are also provided at the ends of each parking aisle.

Based on the above analysis, the project is consistent with the Industrial Design Guidelines.

6. **Special Use Permit Findings.** Chapter 20.100 of Title 20 of the San Jose Municipal Code establishes required findings for issuance of a Special Use Permit.
 - a. The Special Use Permit, as approved, is consistent with and will further the policies of the General Plan and applicable Specific Plans and Area Development Policies; and
Analysis: As described in the General Plan Conformance section above, the proposed office building is an incidental use to the industrial use (landscape and construction company) on site, therefore, the project is consistent with the Light Industrial General Plan land use designation.
 - b. The Special Use Permit, as approved, conforms with the Zoning Code and all other provisions of the San José Municipal Code applicable to the project; and
Analysis: As discussed in the Zoning Ordinance Conformance section above, the project conforms to the development regulations for the Light Industrial Zoning District as set forth in Section 20.50.200 of the San José Municipal Zoning Code. The building would meet the setbacks, height, parking, lighting and landscaping requirements.
 - c. The Special Use Permit, as approved, is consistent with applicable City Council policies, or counterbalancing considerations justify the inconsistency.

Analysis: The project is consistent with City Council Policy 6-30 Public Outreach Policy for Land Use and Development Proposals. On-site signs describing the project were posted on the project site. A notice of the hearing was sent to surrounding neighbors and property owners within a 500 feet radius of the subject site.

- d. The proposed use at the location requested will not:
- i. Adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area, or
 - ii. Impair the utility or value of property of other persons located in the vicinity of the site; or
 - iii. Be detrimental to public health, safety, or general welfare; and

Analysis: The project site is primarily surrounded by industrial uses. The business on site is a landscape and construction company. The proposed office building is supportive to this industrial use. The outdoor yard space is to allow truck to come to the site to transport landscape construction material and temporally hold materials and supplies such as plants waiting to be planted. The office hours are Monday to Friday. Most of the core staffs come in between 7am to 4pm, about half of them (8) come in as early as 5am and leave around 2pm. Overall, the project would not negatively impact any surrounding properties or persons.

- e. The proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities; landscaping and other development features prescribed in this title, or as is otherwise required in order to integrate the use with existing and planned uses in the surrounding area; and

Analysis: The project includes landscape buffers with trees that comply with the City's Industrial Design Guidelines. Adequate landscaping and screening are included in the project frontage and adjacent to the transient housing to the north. The project provides adequate vehicle, bicycle, and motorcycle parking and sufficient driveways and circulation area to ensure access throughout the site.

- f. The proposed site is adequately served:
- i. By highways or streets of sufficient width and improved as necessary to carry the kind of quantity or traffic such use would generate; or by other forms of transit adequate to carry the kind and quantity of individuals such use would generate; and
 - ii. By other public and private service facilities as are required.

Analysis: Vehicular access to the site will be provided via one existing full-access driveway on Commercial Street. Regional access to the project site is provided by US 101 and Interstate 880. Two local bus routes (61 and 66) and one light rail (901) serve the immediate project area.

- g. The environmental impacts of the project, including but not limited to noise, vibration, dust, drainage, erosion, storm water runoff, and odor which, even if insignificant for purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative affect on adjacent property or properties.

Analysis: The project occurs in an urbanized area that is adequately served by all required utilities and public services, and the Stormwater Control Plan is in compliance with the City's stormwater policies that require low impact development stormwater measures to minimize stormwater pollutant discharges. Construction activities would result in temporary noise, vibration, and air quality impacts. The Special Use Permit to allow the outdoor storage and the supportive office building would not result in significant negative noise, vibration, dust, drainage, erosion, or stormwater runoff and odor impacts to the surrounding properties.

7. Site Development Permit Findings. Section 20.100.630 of the San Jose Municipal Code establishes required findings for issuance of a Site Development Permit.

- a. The Site Development Permit, as approved, is consistent with and will further the policies of the General Plan and applicable specific plans and area development policies.

Analysis: See Special Use Permit Finding a.

- b. The Site Development Permit, as approved, conforms with the Zoning Code and all other provisions of the San José Municipal Code applicable to the project.

Analysis: See Special Use Permit Findings b.

- c. The Site Development Permit, as approved, is consistent with applicable City Council policies, or counterbalancing considerations justify the inconsistency.

Analysis: See Special Use Permit Findings c.

- d. The interrelationship between the orientation, location, and elevations of proposed buildings and structures and other uses on-site are mutually compatible and aesthetically harmonious.

Analysis: The site layout is well design to meet the business/operational needs. The office building is located at the front, storage building is in the middle and the existing warehouse building and outdoor storage/truck turn around area remain at the rear of the site. In between the office building and the storage building there is a small outdoor area with trellis to provide outdoor space for staff. The trash enclosure is located at the end of the parking isle and near the truck turn around area. The two new buildings have the same architectural style with same colors and materials.

- e. The orientation, location, and elevation of the proposed buildings and other uses on the site are compatible with and are aesthetically harmonious with adjacent development or the character of the neighborhood.

Analysis: The project site is located within an industrial area and is surrounded by industrial buildings except the transient residential building to the north. The project continues the street pattern with landscaping along the building's. The propsoed building style is compatible with building styles of the surrounding buildings.

- f. The environmental impacts of the project, including but not limited to noise, vibration, dust, drainage, erosion, storm water runoff, and odor which, even if insignificant for purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative affect on adjacent property or properties.

Analysis: Under the provisions of Section 15303 (c) for New Construction or Conversion of Small Structures of the State Guidelines for Implementation of the California Environmental Quality Act, this project is exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970, as amended. The temporary construction of the project would not have an unacceptable negative effect on adjacent property or properties because of City limitations on construction hours and standard permit conditions. The project will also implement standard permit conditions in accordance with City standards and regulations for construction and operation. The project is in compliance with the City's stormwater requirements and provides on-site bio-treatment. No odors are associated with the operation of the facility.

- g. Landscaping, irrigation systems, walls and fences, features to conceal outdoor activities, exterior ventilating, plumbing, utility and trash facilities are sufficient to maintain or upgrade the appearance of the neighborhood.

Analysis: The proposed project would provide new landscaping along the project's perimeter that meets the landscape design requirements in the Industrial Design Guidelines. The proposed building would conceal the rooftop equipment, plumbing and utility to upgrade the site's appearance.

- h. Traffic access, pedestrian access and parking are adequate.

Analysis: The proposed project conforms with the Zoning Code parking requirements. This site is accessible by a driveway on Commercial street. Adequate pedestrian access is provided via a walkway connecting to the adjacent public sidewalk along Commercial Street.

- 8. **Demolition Findings.** Pursuant to Section 20.80.460 of the San José Municipal Code, prior to the issuance of the Site Development Permit, the Director shall determine whether the benefits of permitting the demolition of the existing buildings outweigh the impacts of the demolition. In making such a determination, the following criteria shall be considered:
 - a. The failure to approve the permit would result in the creation or continued existence of a nuisance, blight or dangerous condition;
 - b. The failure to approve the permit would jeopardize public health, safety or welfare;
 - c. The approval of the permit should facilitate a project which is compatible with the surrounding neighborhood;
 - d. The approval of the permit should maintain the supply of existing housing stock in the City of San José;
 - e. Both inventoried and non-inventoried buildings, sites and districts of historical significance should be preserved to the maximum extent feasible;
 - f. Rehabilitation or reuse of the existing building would not be feasible; and
 - g. The demolition, removal or relocation of the building without an approved replacement building should not have an adverse impact on the surrounding neighborhood.

Analysis: The existing building on-site was constructed in 1950s and is not a building of historical significance. The demolition of the existing building would facilitate the

construction of the project consistent with the industrial uses in the area, the General Plan and the Zoning District, as noted above. The demolition would not result in a nuisance, blight, or dangerous condition as the demolition would allow for the construction of the new mini-storage building.

9. **Tree Removal Findings.** Chapter 13.32 of the San José Municipal Code establishes at least one of the following required findings must be made for issuance of a Tree Removal Permit, which findings are made for the Project based on the above-stated findings related to General Plan, Zoning and CEQA conformance and for the reasons stated below, and subject to the conditions set forth in this Permit.
- That the tree affected is of a size, type and condition, and is in such a location in such surroundings, that its removal would not significantly frustrate the purposes of Chapter 13.32 of the San José Municipal Code as set forth in Section 13.32.010;
 - That the location of the tree with respect to a proposed improvement unreasonably restricts the economic development of the parcel in question;
 - That the condition of the tree with respect to disease, danger of falling, proximity to an existing or proposed structure, and/or interference with utility services, is such that preservation of the public health or safety requires its removal.

Analysis: The project proposes to remove two non-ordinance size tree in the front because they are located too close to the proposed building and fence. The required # of replacement trees are four 15-gallon trees. The project would plant 14 trees on site with a minimum size of 15 gallon.

10. **Environmental Review.** Under the provisions of Section 15303 (c) New Construction or Conversion of Small Structures of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA), the Site Development Permit is found to be exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970, as amended. CEQA Guidelines Section 15303 applies to projects that consist of small new construction, or the conversion of existing small structures from one use to another where only minor modifications are made to the exterior of the structure. CEQA Guidelines Section 15303 (c) includes the following criteria: A store, motel, office, restaurant or similar structure not involving the use of significant amounts of hazardous substances, and not exceeding 2500 square feet in floor area. In urbanized areas, the exemption also applies to up to four such commercial buildings not exceeding 10,000 square feet in floor area on sites zoned for such use if not involving the use of significant amounts of hazardous substances where all necessary public services and facilities are available and the surrounding area is not environmentally sensitive.

Analysis: The project site is within an urbanized area where all necessary public services and facilities are available and the surrounding area is not environmentally sensitive. The proposed project includes one 5,000-square foot supportive office building and one 1,133-square foot storage building, and would not involve the use of significant amounts of hazardous substances. Therefore, CEQA Guidelines Section 15303(c) applies.

In accordance with the findings set forth above, a Site Development Permit for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby **approved**. The Director of Planning, Building, and Code Enforcement expressly declares that it would not have granted this Permit except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use conditionally permitted hereby.

APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:

1. **Acceptance of Permit.** Per Section 20.100.290(B), should the permittee fail to file a timely and valid appeal of this Permit within the applicable appeal period, such inaction by the permittee shall be deemed to constitute all of the following on behalf of the permittee:
 - a. Acceptance of the Permit by the permittee; and
 - b. Agreement by the permittee to be bound by, to comply with, and to do all things required of or by the permittee pursuant to all of the terms, provisions, and conditions of this permit or other approval and the provisions of Title 20 applicable to such Permit.
2. **Permit Expiration.** This Permit shall automatically four (4) years from and after the date of issuance hereof by the Director, if within such time period, a Building Permit (for foundation or vertical construction) has not been obtained or, if no Building Permit is required, the use has not commenced, pursuant to and in accordance with the provision of this Permit. The date of issuance is the date this Permit is approved by the Director of Planning. However, the Director of Planning may approve a Permit Adjustment/Amendment to extend the validity of this Permit in accordance with Title 20. The Permit Adjustment/Amendment must be approved prior to the expiration of this Permit.
3. **Building Permit/Certificate of Occupancy.** Procurement of a Building Permit and/or Certificate of Occupancy from the Building Official for the structures described or contemplated under this Conditional Use Permit shall be deemed acceptance of all conditions specified in this Permit and the Permittee's agreement to fully comply with all of said conditions. No change in the character of occupancy or change to a different group of occupancies as described by the Building Code shall be made without first obtaining a Certificate of Occupancy from the Building Official, as required under San José Municipal Code Section 24.02.610, and any such change in occupancy must comply with all other applicable local and state laws.
4. **Building Permit.** Obtainment of a Building Permit is evidence of acceptance of all conditions specified in this document and the applicant's intent to fully comply with said conditions.
5. **Sewage Treatment Demand.** Pursuant to Chapter 15.12 of Title 15 of the San José Municipal Code, acceptance of this Permit by permittee shall constitute acknowledgement of receipt of notice by permittee that (1) no vested right to a Building Permit shall accrue as the result of the granting of this Permit when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José-Santa Clara Regional Wastewater Facility represented by approved land uses in the area served by said Facility will cause the total sewage treatment demand to meet or exceed the capacity of San José Santa Clara Regional Wastewater Facility to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region; (2)

substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority; (3) issuance of a Building Permit to implement this Permit may be suspended, conditioned or denied where the City Manager is necessary to remain within the aggregate operational capacity of the sanitary sewer system available to the City of San José or to meet the discharge standards of the sanitary sewer system imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region.

6. **Conformance to Plans.** The development of the site shall conform to the approved Planned Development Permit Amendment plans entitled, “Special Use Permit, SP19-003, For Maniglia Landscape at 250 Commercial Street, San Jose, CA 95112 ” dated revised on May 20, 2020, on file with the Department of Planning, Building and Code Enforcement, and to the San José Building Code (San José Municipal Code, Title 24), with the exception of any subsequently approved changes.
7. **Use Authorization.** This Special Use Permit allows the demolition of one existing building and the removal of two non-ordinance-sized trees for the construction of an approximately 5,000-square foot supportive office building and a 1,133-square foot storage building, and allow outdoor storage use with a relocated covered storage shed at the rear of the site and the associated site improvements on an existing 0.89-acre industrial site.
8. **Affordable Housing Financing Plans.** The San José City Council (“City”) approved the Envision San Jose General Plan 2040 (“General Plan”) in 2011. The General Plan provides the framework for development located in San Jose.

The City is in the process of developing financing plans to help fund affordable housing and related amenities and services. The financing plans may include the creation of a (i) Community Facilities District(s); (ii) Enhanced Infrastructure Financing District(s); (iii) Property Based Improvement District(s); (iv) Mitigation Impact Fee program(s); (v) Commercial linkage fee program(s); and/or (vi) other financing mechanisms or combination thereof. For example, the City Council has directed City staff to complete studies and make recommendations related to commercial impact fees to help fund affordable housing. These efforts are on-going and there will continue to be other similar efforts to study various funding mechanisms for affordable housing.

By accepting this Permit including the conditions of approval set forth in this Permit, permittee acknowledges it has read and understands all of the above. Permittee further agrees that prior to the issuance of any building permit, the project shall be subject to, fully participate in, and pay any and all charges, fees, assessments, or taxes included in any City Council approved financing plans related to affordable housing, as may be amended, which may include one or more of the financing mechanisms identified above.

9. **Demolition Permit.** A demolition permit may be issued for the buildings and structures indicated on the Approved Plans only upon the issuance of a Building Permit for the project. Any modification to this precondition shall require approval of a Major Permit Adjustment. In no case shall this precondition supersede applicable mitigation measures for the project.
10. **Timing of Tree Removals.** Trees that are proposed for removal to accommodate new development shall not be removed until the related Public Works Grading Permit has been issued.

11. **Replacement Trees.** The project requires four 15-gallon replacement trees for the removal of two non-ordinance size trees. The permittee shall provide appropriate evidence such as, but not limited to, photographs and/or receipts to the Planning Project Manager, to verify compliance with said replacement requirements. Such evidence shall be labeled "File Number SP19-003" and provided to the Planning Project Manager, prior to the issuance of any Building Permits or any Public Works clearances.
12. **Permit Posting.** Prior to commencement of and during removal of any ordinance-size tree pursuant to this Permit, the permittee shall post on the site, or cause to be posted, a copy of this validated Permit in conformance with the following:
 - a. The copy of the Permit shall be a minimum size of 8.5 inches by 11.0 inches; shall be posted at each public street frontage within two feet of the public sidewalk or right-of-way; and shall be posted in such a manner that the Permit is readable from the public sidewalk or right-of-way; or
 - b. If the site does not have a public street frontage, a copy of the Permit shall be posted at a location where the Permit is readable from a common access driveway or roadway.
13. **Presentation of Permit.** During removal of any ordinance-size tree pursuant to this Permit, the permittee shall maintain the validated Permit on the site and present it immediately upon request by the Director of Planning, Building and Code Enforcement, Police Officers or their designee.
14. **No Extended Construction Hours.** This Permit does not allow any construction activity on a site located within 500 feet of a residential unit before 7:00 a.m. or after 7:00 p.m., Monday through Friday, or at any time on weekends.
15. **Conformance with Municipal Code.** No part of this approval shall be construed to permit a violation of any part of the San José Municipal Code.
16. **Compliance with Local and State Laws.** The subject use shall be conducted in full compliance with all local and state laws. No part of this approval shall be construed to permit a violation of any part of the San José Municipal Code. The Permit shall be subject to revocation if the subject use is conducted in such a manner as to cause a nuisance, as defined above.
17. **Discretionary Review.** The Director of Planning, Building and Code Enforcement maintains the right of discretionary review of requests to alter or amend structures, conditions, or restrictions of this Permit incorporated by reference in accordance with Chapter 20.100 of the San Jose Municipal Code.
18. **No Sign Approval:** Any signage shown on the approved plan set are conceptual only. No signs are approved at this time. Any additional signage shall be subject to the review and approval by the Director of Planning through a subsequent Permit Adjustment.
19. **Nuisance.** This use shall be operated in a manner which does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City.
20. **Revocation.** This Permit is subject to revocation for violation of any of its provisions or conditions.

21. **Refuse.** All trash areas shall be effectively screened from view and covered and maintained in an orderly state to prevent water from entering into the garbage container. Trash areas shall be maintained in a manner to discourage illegal dumping.
22. **Anti-Graffiti.** The permittee shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement, including job sites for projects under construction.
23. **Anti-Litter.** The site and surrounding area shall be maintained free of litter, refuse, and debris. Cleaning shall include keeping all publicly used areas free of litter, trash, cigarette butts and garbage.
24. **Building and Property Maintenance.** The property owner or management company shall maintain the property in good visual and functional condition. This shall include, but not be limited to all exterior elements of the buildings such as paint, roof, paving, signs, lighting and landscaping.
25. **Colors and Materials.** All building colors and materials are to be those specified on the Approved Plan Set.
26. **Storm Drain Protection.** No hazardous materials, paint, rinse water, or construction sediments or debris shall be allowed to enter the public right-of-way or any storm drain inlet. The storm drain system flows to the Bay.
27. **Street Number Visibility.** Street numbers of the buildings shall be easily visible from the street at all times, day and night.
28. **No Generators Approved.** This Permit does not include the approval of any stand-by/backup electrical power generation facility. Any future stand-by/backup generators shall secure appropriate permits and shall conform to the regulations of Title 20 of the Municipal Code.
29. **Public Works Clearance for Building Permit(s) or Map Approval:** Prior to the approval of the Tract or Parcel Map (if applicable) by the Director of Public Works, or the issuance of Building permits, whichever occurs first, the Permittee will be required to have satisfied all of the following Public Works conditions. The Permittee is strongly advised to apply for any necessary Public Works permits prior to applying for Building permits. Standard review timelines and submittal instructions for Public Works permits may be found at the following: <https://www.sanjoseca.gov/your-government/departments/public-works/development-services/public-works-applications>.
 - a. **Construction Agreement:** The public improvements conditioned as part of this permit require the execution of a Construction Agreement that guarantees the completion of the public improvements to the satisfaction of the Director of Public Works. This agreement includes privately engineered plans, bonds, insurance, a completion deposit, and engineering and inspection fees.
 - b. **Transportation:**
 - i. A Local Transportation Analysis (LTA) has been performed for this project based on 8AM and 10PM net peak hour trips. We conclude that the subject project will be in conformance with the City of San Jose Transportation Analysis Policy (Council Policy 5-1) and a determination for a negative declaration can be made with respect to traffic impacts. See separate Traffic memo dated 06/04/2020 for additional information.

- ii. This project is subject to the City's US-101/Oakland/Mabury Transportation Development Policy (TDP). The US-101/Oakland/Mabury Transportation Development Policy requires new residential and commercial developments that generate vehicular trips at either of the Policy Interchanges to pay a Traffic Impact Fee (TIF) towards the upgrade of US-101/Oakland Interchange and construction of US-101/Mabury Interchange. The 2020 TIF is \$39,625 for each project peak hour trip that travels through either the US-101/Oakland or US- 101/Mabury Interchanges. This fee is subject to an annual escalation on January 1st per the Engineering News-Record Construction Cost Index for San Francisco.
- 1) The US-101/Oakland/Mabury TDP includes a trip credit incentive, allocated for new industrial land uses or intensification of existing industrial land uses in the area. The TDP allocates a pool of 115 PM peak hour trips at the interchange intersections for trips generated by future industrial growth that are exempt from the TIF program. Trip credits are calculated based on both the estimated number of new peak-hour trips at the interchange intersections (i.e., trip assignment) and the level of intensification. Based on our initial review, the project as proposed is applicable for the trip credit incentive for one (1) PM peak hour trip and is exempt from the TIF program.

c. Grading/Geology:

- i. A grading permit is required prior to the issuance of a Public Works Clearance. The construction operation shall control the discharge of pollutants (sediments) to the storm drain system from the site. An erosion control plan may be required with the grading application.
- ii. All on-site storm drainage conveyance facilities and earth retaining structures 4 foot in height or greater (top of wall to bottom of footing) or is being surcharged (slope of 3:1 or greater abutting the wall) shall be reviewed and approved under Public Works grading and drainage permit prior to the issuance of Public Works Clearance. The drainage plan should include all underground pipes, building drains, area drains and inlets. The project shall provide storm drainage calculations that adhere to the 2013 California Plumbing Code or submit a stamped and signed engineered design alternative for Public Works discretionary approval and must be designed to convey a 10 year storm event.
- iii. The Project site is within the State of California Seismic Hazard Zone. A geotechnical investigation report addressing the potential hazard of liquefaction must be submitted to, reviewed and approved by the City Geologist prior to issuance of a grading permit or Public Works Clearance. The report should also include, but not limited to: foundation, earthwork, utility trenching, retaining and drainage recommendations. The investigation should be consistent with the guidelines published by the State of California (CGS Special Publication 117A) and the Southern California Earthquake Center (SCEC, 1999). A recommended depth of 50 feet should be explored and evaluated in the investigation.

- d. **Stormwater Runoff Pollution Control Measures:** This project must comply with the City's Post-Construction Urban Runoff Management Policy (Policy 6-29) which requires implementation of Best Management Practices (BMPs) which includes site design measures, source controls, and numerically-sized Low Impact Development (LID) stormwater treatment measures to minimize stormwater pollutant discharges.
 - i. The project's Stormwater Control Plan and numeric sizing calculations have been reviewed and this project will be in conformance with City Policy 6-29.
 - ii. Final inspection and maintenance information on the post-construction treatment control measures must be submitted prior to issuance of a Public Works Clearance.
 - iii. A design of the pervious pavement by a Licensed Geotechnical Engineer shall be submitted prior to the issuance of a Public Works Clearance.
- e. **Stormwater Peak Flow Control Measures:** The project is located in a non-Hydromodification Management area and is not required to comply with the City's Post-Construction Hydromodification Management Policy (Council Policy 8-14).
- f. **For the proposed Office Support Building in Flood Zone AH, Elevation 55':**
 - i. Elevate the lowest floor to or above 55' NAVD88 or floodproof to the same elevation. For insurance rating purposes, the building's floodproofed design elevation must be at least one foot above the base flood elevation to receive rating credit.
 - ii. An Elevation Certificate (FEMA Form 086-0-33) for each proposed structure, based on construction drawings, is required prior to issuance of a building permit. Consequently, an Elevation Certificate for each built structure, based on finished construction is required prior to issuance of an occupancy permit.
 - iii. If the structure is to be floodproofed, a Floodproofing Certificate (FEMA Form 086-0-34) for each structure, floodproofing details, and if applicable, a Flood Emergency Operation Plan and an Inspection & Maintenance Plan are required prior to the issuance of a Public Works Clearance.
 - iv. Building support utility systems such as HVAC, electrical, plumbing, air conditioning equipment, including ductwork, and other service facilities must be elevated above the base flood elevation of 55' NAVD88 or protected from flood damage. Construction materials used below the base flood elevation of xxx.xx' NAVD88 must be resistant to flood damage.
- g. **For the proposed Storage Building in Flood Zone X:** This area of the site is not within a designated Federal Emergency Management Agency (FEMA) 100-year floodplain. Flood zone X is an area of moderate or minimal flood hazard. Zone X is used on new and revised maps in place of Zones B and C. There are no City floodplain requirements for zone X.
- h. **Sewage Fees:** In accordance with City Ordinance all storm sewer area fees, sanitary sewer connection fees, and sewage treatment plant connection fees, less previous credits, are due and payable.

i. **Street Improvements:**

- i. The Permittee shall be responsible to remove and replace curb, gutter, and sidewalk damaged during construction of the proposed project.
- ii. Remove and replace broken, uplifted curb and gutter as well as broken, uplifted or non-ADA compliant sidewalk along project frontage.
- iii. Remove existing driveway and replace with a 26-foot-wide current City standard driveway at project frontage.
- iv. Repair, overlay, or reconstruction of asphalt pavement will be required. The existing pavement will be evaluated with the street improvement plans and any necessary pavement restoration will be included as part of the final street improvement plans.

j. **Sanitary:** The project is required to submit plan and profile of the private sewer with lateral locations for final review and comment prior to construction.

k. **Electrical:** Existing electroliers along the project frontage will be evaluated at the public improvement stage and any street lighting requirements will be included on the public improvement plans.

l. **Street Trees:** The locations of the street trees will be determined at the street improvement stage. Contact the City Arborist at (408) 794-1901 for the designated street tree. Install street trees within public right-of-way along entire project street frontage per City standards; refer to the current "Guidelines for Planning, Design, and Construction of City Streetscape Projects". Street trees shall be installed in cut-outs at the back of curb. Obtain a DOT street tree planting permit for any proposed street tree plantings. Street trees shown on this permit are conceptual only.

30. **Building Division Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:

- a. *Construction Plans.* This permit file number, **SP19-003** shall be printed on all construction plans submitted to the Building Division.
- b. *Americans with Disabilities Act.* The permittee shall provide appropriate access as required by the Americans with Disabilities Act (ADA).
- c. *Construction Plan Conformance.* A project construction plan conformance review by the Planning Division is required. Planning Division review for project conformance will begin with the initial plan check submittal to the Building Division. Prior to any building permit issuance, building permit plans shall conform to the approved Planning development permits and applicable conditions.

31. **Revocation, Suspension, Modification.** This Permit may be revoked, suspended or modified by the Planning Director, or by the Planning Commission on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 3, Chapter 20.44, Title 20 of the San José Municipal Code it finds:

- a. A violation of any conditions of the Permit was not abated, corrected or rectified within the time specified on the notice of violation; or
- b. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or
- c. The use as presently conducted creates a nuisance.

APPROVED and issued on this **15th day of July, 2020**

Rosalyn Hughey, Director
Planning, Building, and Code Enforcement

Deputy

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